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HEWLETT-PACKARD COMPANY			TRAN, THANH Y	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PING MEI

Appeal 2009-009505
Application 10/769,127
Technology Center 2800

Before JOSEPH F. RUGGIERO, CARL W. WHITEHEAD, JR., and
BRADLEY W. BAUMEISTER, *Administrative Patent Judges*.

BAUMEISTER, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Summary

Claims 1 and 13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Dai (US 5,877,076; issued Mar. 2, 1999). Claims 3, 14, and 17 stand rejected under 35 U.S.C. § 103(a) as being obvious over Dai in view of Taussig (US 6,861,365 issued Mar. 1, 2005). Claims 11, 12, 21, and 24-30 are withdrawn from consideration. Claims 2, 4-10, 15, 16, 18-20, 22, and 23 have been indicated as containing allowable subject matter. Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's final rejections of claims 1, 3, 13, 14, and 17.

We affirm.

Background

Appellant's invention relates to a method [and system] for forming a semiconductor device. Independent claim 1 is representative,² reading as follows:

1. A method for forming a semiconductor device comprising:
forming a 3-dimensional (3D) pattern in a substrate; and
depositing at least one material over the substrate in accordance with desired characteristics of the semiconductor device.

² Appellant argues independent claims 1 and 13 together as a group. *See* App. Br. 6-7. Accordingly, we select claim 1 as representative. *See* 37 C.F.R. § 41.37(c)(1)(vii).

The anticipation rejection of claim 1 over Dai is based upon the Examiner interpreting the claim term “substrate” as broadly reading on a combination of layers: either layers 160, 150, 140, 130, 120, and 110; or alternatively, layers 140, 130, 120 and 110 (Ans. 5). Appellant notes that Dai labels only layer 110 as a substrate and refers to layers 120, 130, and 140 alternatively as dielectric insulation layers (App. Br. 7).

ISSUE

Must the claim term “substrate” be limited to single-layer structures?

ANALYSIS

Appellant only notes the terms by which Dai refers to the various layers disclosed therein (App. Br. 6-7; Reply Br. 7-9). Appellant has not provided any evidence, though, that the term “substrate” must necessarily be limited to single-layer structures. Nor has Appellant provided any reasons why it would be unreasonably broad to read “substrate” on a multi-layer structure. For the foregoing reasons, then, Appellant has not persuaded us of error in the anticipation rejection of representative claim 1.

Accordingly, we will sustain the Examiner’s rejection of claim 1, as well as claim 13, which is grouped therewith. With respect to the remaining rejection of claims 3, 14, and 17, Appellant provides no patentability arguments directed to the additional reference, Taussig. Rather, Appellant repeats the arguments directed to claim 1 and applies them to the remaining rejection (App. Br. 8). For the reasons discussed above, then, we also sustain the rejection of claims 3, 14, and 17.

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DECISION

We sustain the Examiner's rejections with respect to all pending claims on appeal. Therefore, the Examiner's decision rejecting claims 1, 3, 13, 14, and 17 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1). *See* 37 C.F.R. § 1.136(a)(1)(v).

AFFIRMED

gvw

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